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KEN BENNETT
SECRETARY OF STATE

State of Arizona
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Forty-ninth Legislature
Second Regular Session
2010

CHAPTER 26

HOUSE BILL 2025

AN ACT

AMENDING SECTIONS 32-900, 32-922.02, 32-924 AND 32-925, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 8, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-934; RELATING TO THE BOARD OF CHIROPRACTIC EXAMINERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 32-900, Arizona Revised Statutes, is amended to
3 read:

4 32-900. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Board" means the state board of chiropractic examiners.

7 2. "Certification" means that a doctor of chiropractic has been
8 certified by the board in a specialty of chiropractic as provided by law.

9 3. "Chiropractic assistant" means an unlicensed person who has
10 completed an educational training program approved by the board, who assists
11 in basic health care duties in the practice of chiropractic under the
12 supervision of a doctor of chiropractic and who performs delegated duties
13 commensurate with the chiropractic assistant's education and training but who
14 does not evaluate, interpret, design or modify established treatment programs
15 of chiropractic care or violate any statute.

16 4. "Doctor of chiropractic" means a natural person who holds a license
17 to practice chiropractic pursuant to this chapter.

18 5. "License" means a license to practice chiropractic.

19 6. "PHYSICAL MEDICINE MODALITIES" MEANS ANY PHYSICAL AGENT APPLIED TO
20 PRODUCE THERAPEUTIC CHANGE TO BIOLOGIC TISSUES, INCLUDING THERMAL, ACOUSTIC,
21 NONINVASIVE LIGHT, MECHANICAL OR ELECTRIC ENERGY, HOT OR COLD PACKS,
22 ULTRASOUND, GALVANISM, MICROWAVE, DIATHERMY AND ELECTRICAL STIMULATION.

23 7. "THERAPEUTIC PROCEDURES" MEANS THE APPLICATION OF CLINICAL SKILLS
24 AND SERVICES, INCLUDING THERAPEUTIC EXERCISE, THERAPEUTIC ACTIVITIES, MANUAL
25 THERAPY TECHNIQUES, MASSAGE AND STRUCTURAL SUPPORTS, TO IMPROVE A PATIENT'S
26 NEUROMUSCULOSKELETAL CONDITION.

27 Sec. 2. Section 32-922.02, Arizona Revised Statutes, is amended to
28 read:

29 32-922.02. Specialties; certification; fees

30 A. In order to practice a chiropractic specialty a licensee shall be
31 certified in that specialty by the board.

32 B. An applicant who wishes to be certified to perform acupuncture
33 shall submit the following to the board:

34 1. Documentation of successful completion of a minimum of one hundred
35 hours of study in acupuncture at an accredited chiropractic college or
36 postgraduate study with an instructor on the active or postgraduate staff of
37 an accredited chiropractic college.

38 2. A complete application as prescribed by the board.

39 3. Documentation of having passed a board approved acupuncture
40 examination.

41 C. An applicant who wishes to be certified to perform ~~physiotherapy~~
42 PHYSICAL MEDICINE MODALITIES AND THERAPEUTIC PROCEDURES shall submit the
43 following to the board:

- 1 1. A complete application as prescribed by the board.
- 2 2. Documentation of successful completion of a minimum of one hundred
- 3 twenty hours of study in ~~physiotherapy~~ PHYSICAL MEDICINE MODALITIES AND
- 4 THERAPEUTIC PROCEDURES at an accredited chiropractic college or postgraduate
- 5 study with an instructor on the active or postgraduate staff of an accredited
- 6 chiropractic college.
- 7 3. Documentation of having passed an examination in ~~physiotherapy~~
- 8 PHYSICAL MEDICINE MODALITIES AND THERAPEUTIC PROCEDURES that is approved by
- 9 the board.
- 10 D. The board shall issue a certificate to any applicant who meets the
- 11 requirements of this section, who correctly answers at least seventy-five per
- 12 cent of all questions asked on the specialty examination and who pays a
- 13 certificate fee of one hundred dollars.
- 14 E. On making application, the applicant shall pay to the executive
- 15 director of the board a nonrefundable fee of one hundred dollars. The board
- 16 shall keep a register of all applicants and the result of each examination.
- 17 F. A CHIROPRACTOR WHO IS CERTIFIED IN A SPECIALTY PURSUANT TO
- 18 SUBSECTION C BEFORE THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION IS
- 19 DEEMED TO BE CERTIFIED IN PHYSICAL MEDICINE MODALITIES AND THERAPEUTIC
- 20 PROCEDURES.
- 21 Sec. 3. Section 32-924, Arizona Revised Statutes, is amended to read:
- 22 32-924. Grounds for disciplinary action: hearing: civil
- 23 penalty: definition
- 24 A. The following are grounds for disciplinary action, regardless of
- 25 where they occur:
- 26 1. Employment of fraud or deception in securing a license.
- 27 2. Practicing chiropractic under a false or assumed name.
- 28 3. Impersonating another practitioner.
- 29 4. Habitual use of alcohol, narcotics or stimulants to the extent of
- 30 incapacitating the licensee for the performance of professional duties.
- 31 5. Unprofessional or dishonorable conduct of a character likely to
- 32 deceive or defraud the public or tending to discredit the profession.
- 33 6. Conviction of a misdemeanor involving moral turpitude or of a
- 34 felony.
- 35 7. Gross malpractice, repeated malpractice or any malpractice
- 36 resulting in the death of a patient.
- 37 8. Representing that a manifestly incurable condition can be
- 38 permanently cured, or that a curable condition can be cured within a stated
- 39 time, if this is not true.
- 40 9. Offering, undertaking or agreeing to cure or treat a condition by a
- 41 secret means, method, device or instrumentality.
- 42 10. Refusing to divulge to the board on demand the means, method,
- 43 device or instrumentality used in the treatment of a condition.
- 44 11. Giving or receiving or aiding or abetting the giving or receiving
- 45 of rebates, either directly or indirectly.

1 12. Acting or assuming to act as a member of the board if this is not
2 true.

3 13. Advertising in a false, deceptive or misleading manner.

4 14. ~~Refusal, revocation or suspension of~~ HAVING HAD a license REFUSED,
5 REVOKED OR SUSPENDED by any other state or country, unless it can be shown
6 that the action was not taken for reasons that relate to the ability to
7 safely and skillfully practice chiropractic or to any act of unprofessional
8 conduct.

9 15. Any conduct or practice contrary to recognized standards in
10 chiropractic or any conduct or practice that constitutes a danger to the
11 health, welfare or safety of the patient or the public or any conduct,
12 practice or condition that impairs the ability of the licensee to safely and
13 skillfully practice chiropractic.

14 16. Violating or attempting to violate, directly or indirectly, or
15 assisting in or abetting the violation of or conspiring to violate any of the
16 provisions of this chapter or any board order.

17 17. Failing to sign the physician's name, wherever required, in any
18 capacity as "chiropractic doctor", "chiropractic physician" or "doctor of
19 chiropractic" or failing to use and affix the initials "D.C." after the
20 physician's name.

21 18. Failing to place or cause to be placed the word or words
22 "chiropractic", "chiropractor", "chiropractic doctor" or "chiropractic
23 physician" in any sign or advertising media.

24 19. Using ~~physiotherapy~~ PHYSICAL MEDICINE MODALITIES AND THERAPEUTIC
25 PROCEDURES without passing an examination in that subject and without being
26 certified in that specialty by the board.

27 20. Using acupuncture without passing an examination in that subject
28 and without being certified in that specialty by the board.

29 21. Engaging in sexual intercourse or oral sexual contact with a
30 patient in the course of treatment.

31 22. Billing or otherwise charging a patient or third party payor for
32 services, appliances, tests, equipment, an x-ray examination or other
33 procedures not actually provided.

34 23. Intentionally misrepresenting to or omitting a material fact from
35 the patient or third party payor concerning charges, services, appliances,
36 tests, equipment, an x-ray examination or other procedures offered or
37 provided.

38 24. Advertising chiropractic services, appliances, tests, equipment,
39 x-ray examinations or other procedures for a specified price without also
40 specifying the services, procedures or items included in the advertised
41 price.

42 25. Advertising chiropractic services, appliances, tests, equipment,
43 x-ray examinations or other procedures as free without also disclosing what
44 services or items are included in the advertised service or item.

1 26. Billing or charging a patient or third party payor a higher price
2 than the advertised price in effect at the time the services, appliances,
3 tests, equipment, x-ray examinations or other procedures were provided.

4 27. Advertising a specialty or procedure that requires a separate
5 examination or certificate of specialty, unless the licensee has satisfied
6 the applicable requirements of this chapter.

7 28. Solicitation by the licensee or by the licensee's compensated agent
8 of any person who is not previously known by the licensee or the licensee's
9 agent, and who at the time of the solicitation is vulnerable to undue
10 influence, including any person known to have experienced any of the
11 following within the last fifteen days:

12 (a) Involvement in a motor vehicle accident.

13 (b) Involvement in a work-related accident.

14 (c) Injury by, or as the result of actions of, another person.

15 B. The board on its own motion or on receipt of a complaint may
16 investigate any information that appears to show that a doctor of
17 chiropractic is or may be in violation of this chapter or board rules or is
18 or may be mentally or physically unable to safely engage in the practice of
19 chiropractic. The board shall notify the licensee as to the content of the
20 complaint as soon as is reasonable. Any person who reports or provides
21 information to the board in good faith is not subject to civil damages as a
22 result of that action.

23 C. The board may require a licensee under investigation pursuant to
24 this section to be interviewed by the board or its representatives. The
25 board may require a licensee who is under investigation pursuant to this
26 section to undergo, at the licensee's expense, any combination of medical,
27 physical or mental examinations that the board finds necessary to determine
28 the licensee's competence.

29 D. If the board finds based on the information it receives under
30 subsections B and C that the public health, safety or welfare imperatively
31 requires emergency action, and incorporates a finding to that effect in its
32 order, the board may order a summary suspension of a license pending
33 proceedings for revocation or other action. If the board takes this action
34 it shall also serve the licensee with a written notice that states the
35 charges and that the licensee is entitled to a formal hearing within sixty
36 days.

37 E. If, after completing its investigation, the board finds that the
38 information provided pursuant to this section is not of sufficient
39 seriousness to merit disciplinary action against the licensee, it may take
40 any of the following actions:

41 1. Dismiss the complaint if in the board's opinion the information is
42 without merit or does not warrant sanction of the licensee.

43 2. Issue an advisory letter. An advisory letter is a nondisciplinary
44 action and is a public document.

1 3. Issue a nondisciplinary order requiring the licensee to complete a
2 prescribed number of hours of continuing education in an area or areas
3 prescribed by the board to provide the licensee with the necessary
4 understanding of current developments, skills, procedures or treatment.
5 Failure to complete a nondisciplinary order requiring continuing education is
6 a violation of subsection A, paragraph 16.

7 F. The board may request a formal interview with the licensee
8 concerned. At a formal interview the board may receive and consider
9 pertinent documents and sworn statements of persons who may be called as
10 witnesses in a formal hearing. Legal counsel may be present and participate
11 in the formal interview. If the licensee refuses the request or if the
12 licensee accepts the request and the results of the interview indicate
13 suspension or revocation of the license may be in order, the board shall
14 issue a complaint and order that a hearing be held pursuant to title 41,
15 chapter 6, article 10. If, after the formal interview, the board finds that
16 the information provided pursuant to this section is true but is not of
17 sufficient seriousness to merit suspension or revocation of the license, it
18 may take any of the following actions:

19 1. Dismiss the complaint if in the board's opinion the information is
20 without merit or does not warrant sanction of the licensee.

21 2. Issue an advisory letter. An advisory letter is a nondisciplinary
22 action and is a public document.

23 3. Issue an order to cease and desist.

24 4. Issue a letter of concern.

25 5. Issue an order of censure. An order of censure is an official
26 action against the licensee and may include a requirement for restitution of
27 fees to a patient resulting from a violation of this chapter or board rules.

28 6. Fix a period and terms of probation best adapted to protect the
29 public health and safety and to rehabilitate or educate the licensee. Any
30 costs incidental to the terms of probation are at the licensee's own expense.
31 Probation may include restrictions on the licensee's license to practice
32 chiropractic.

33 7. Impose a civil penalty of not more than one thousand dollars for
34 each violation of this chapter.

35 8. Refuse to renew a license.

36 9. Issue a disciplinary or nondisciplinary order requiring the
37 licensee to complete a prescribed number of hours of continuing education in
38 an area or areas prescribed by the board to provide the licensee with the
39 necessary understanding of current developments, skills, procedures or
40 treatment.

41 G. If the board believes the charge is of such magnitude as to warrant
42 suspension or revocation of the license, the board shall immediately initiate
43 formal revocation or suspension proceedings pursuant to title 41, chapter 6,
44 article 10. The board shall notify a licensee of a complaint and hearing by
45 certified mail addressed to the licensee's last known address on record in

1 the board's files. The notice of a complaint and hearing is effective on the
2 date of its deposit in the mail. The board shall hold a formal hearing
3 within one hundred eighty days after that date.

4 H. If the licensee wishes to be present at the formal hearing in
5 person or by representation, or both, the licensee shall file with the board
6 an answer to the charges in the complaint. The answer shall be in writing,
7 verified under oath and filed within twenty days after service of the
8 complaint.

9 I. Any licensee who, after a hearing, is found to be in violation of
10 this chapter or board rules or is found to be mentally or physically unable
11 to safely engage in the practice of chiropractic is subject to any
12 combination of those disciplinary actions identified in subsection F or
13 suspension or revocation of the license. In addition, the board may order
14 the licensee to pay restitution or all costs incurred in the course of the
15 investigation and formal hearing in the matter, or both.

16 J. The board shall report allegations of evidence of criminal
17 wrongdoing to the appropriate criminal justice agency.

18 K. The board may accept the surrender of an active license from a
19 licensee who admits in writing to having violated this chapter or board
20 rules.

21 L. For the purposes of this section, "solicitation" includes contact
22 in person, by telephone, telegraph or telefacsimile or by other communication
23 directed to a specific recipient and includes any written form of
24 communication directed to a specific recipient.

25 Sec. 4. Section 32-925, Arizona Revised Statutes, is amended to read:

26 32-925. Practice of chiropractic; limitations

27 A. A doctor of chiropractic is a portal of entry health care provider
28 who engages in the practice of health care that includes:

29 1. The diagnosis and correction of subluxations, functional vertebral
30 or articular dysarthrosis or neuromuscular skeletal disorders for the
31 restoration and maintenance of health.

32 2. Physical and clinical examinations, diagnostic x-rays and clinical
33 laboratory procedures that are limited to urine collection, finger pricks or
34 venipuncture in order to determine the propriety of a regimen of chiropractic
35 care or to form a basis for referral of patients to other licensed health
36 care professionals, or both.

37 3. Treatment by:

38 (a) PHYSICAL MEDICINE MODALITIES, THERAPEUTIC PROCEDURES AND
39 adjustment of the spine or bodily articulations. ~~and those~~

40 (b) Procedures ~~preparatory and complementary to the adjustment~~
41 ~~including physiotherapy~~ related to the correction of subluxations ~~or~~ AND
42 NEUROMUSCULAR SKELETAL DISORDERS.

43 (c) PRESCRIPTION OF orthopedic supports. ~~of the spine and~~

44 (d) Acupuncture.

1 B. A doctor of chiropractic licensed under this chapter shall not
2 prescribe or administer medicine or drugs, perform surgery or practice
3 obstetrics.

4 Sec. 5. Title 32, chapter 8, article 2, Arizona Revised Statutes, is
5 amended by adding section 32-934, to read:

6 32-934. Business entities; medical records protocol;
7 exemptions; violation; classification

8 A. A BUSINESS ENTITY MAY NOT OFFER CHIROPRACTIC SERVICES PURSUANT TO
9 THIS CHAPTER UNLESS THE BUSINESS ENTITY ESTABLISHES A WRITTEN PROTOCOL FOR
10 THE SECURE STORAGE, TRANSFER AND ACCESS OF THE MEDICAL RECORDS OF THE
11 BUSINESS ENTITY'S PATIENTS. THIS PROTOCOL MUST INCLUDE, AT A MINIMUM,
12 PROCEDURES FOR:

- 13 1. NOTIFYING PATIENTS OF THE FUTURE LOCATIONS OF THEIR RECORDS IF THE
14 BUSINESS ENTITY TERMINATES OR SELLS THE PRACTICE.
15 2. DISPOSING OF UNCLAIMED MEDICAL RECORDS.
16 3. THE TIMELY RESPONSE TO REQUESTS BY PATIENTS FOR COPIES OF THEIR
17 RECORDS.

18 B. THIS SECTION DOES NOT APPLY TO:

- 19 1. A FACILITY OWNED BY A PERSON WHO IS LICENSED PURSUANT TO THIS
20 CHAPTER.
21 2. A SOLE PROPRIETORSHIP OR PARTNERSHIP THAT CONSISTS OF PERSONS WHO
22 ARE LICENSED PURSUANT TO THIS CHAPTER.
23 3. A PROFESSIONAL CORPORATION OR PROFESSIONAL LIMITED LIABILITY
24 COMPANY, THE SHARES OF WHICH ARE OWNED BY PERSONS WHO ARE LICENSED PURSUANT
25 TO THIS CHAPTER.
26 4. AN ADMINISTRATOR OR EXECUTOR OF THE ESTATE OF A DECEASED DOCTOR OF
27 CHIROPRACTIC OR A PERSON WHO IS LEGALLY AUTHORIZED TO ACT FOR A DOCTOR OF
28 CHIROPRACTIC WHO HAS BEEN ADJUDICATED TO BE MENTALLY INCOMPETENT FOR NOT MORE
29 THAN ONE YEAR AFTER THE DATE OF THE DOCTOR OF CHIROPRACTIC'S DEATH OR
30 INCAPACITATION.
31 5. A HEALTH CARE INSTITUTION THAT IS LICENSED PURSUANT TO TITLE 36.
32 C. A BUSINESS ENTITY THAT OFFERS CHIROPRACTIC SERVICES PURSUANT TO
33 THIS CHAPTER WITHOUT COMPLYING WITH THE REQUIREMENTS OF THIS SECTION IS
34 GUILTY OF A CLASS 6 FELONY.

APPROVED BY THE GOVERNOR APRIL 9, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 9, 2010.